

**UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LORILLARD TOBACCO COMPANY, a
Delaware corporation,

Plaintiff,

v.

YAZAN'S SERVICE PLAZA, INC., a
Michigan corporation,

Defendants.

Case Number: 05-70804

JUDGE PAUL D. BORMAN
MAG. JUDGE WALLACE CAPEL, JR.
UNITED STATES DISTRICT COURT

OPINION AND ORDER:

Recently, in *Safeco Ins. Co. of America v. Charles Burr*, 127 S.Ct. 2201 (2007), the Supreme Court held that:

[W]illfully is a word of many meanings whose construction is often dependant on the context in which it appears, and where willfulness is a statutory condition of civil liability, we have generally taken it to cover not only knowing violations of a standard, but reckless ones as well.

Id. at 2208 (citations and quotations omitted). In that opinion, the Supreme Court also found that:

While the term recklessness is not self-defining, the common law has generally understood it in the sphere of civil liability as conduct violating an objective standard: action entailing an unjustifiably high risk of harm that is either known or so obvious that it should be known.

Id. at 2215 (citations and quotations omitted).

In light of the *Safeco* opinion, the Court requests that the parties submit a five page supplemental brief on the applicability of the opinion, and its discussion of willfulness, as it

applies to the case at bar. The parties must both submit said briefs no later than 5 p.m. on Wednesday, June 13, 2007.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: June 11, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on June 11, 2007.

s/Denise Goodine
Case Manager